

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

x

LAWRENCE BURLEY and FRANKLYN  
JACKSON,

07-CV-3336 (SCR)

Plaintiffs,

**CONFIDENTIALITY  
STIPULATION**

-against-

THE CITY OF NEWBURG, POLICE OFFICER  
ROBERT VASTA, POLICE OFFICER  
NICHOLAS CARDINALE and UNKNOWN  
POLICE OFFICERS 1-5,

Defendants.

x

WHEREAS, plaintiffs have sought certain documents from defendants in this action, documents which defendants deem confidential, and

WHEREAS, defendants object to the production of those documents unless appropriate protection for their confidentiality is assured, and

WHEREAS, the parties agree that plaintiffs' discovery request seeking production of documents shall be limited to documents reflecting incidents which are alleged to have occurred prior to March 11, 2005, the date of plaintiffs' arrest.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and among the attorneys for plaintiffs and defendants, as follows:

1. Defendants agree to provide plaintiffs with a privilege log describing, in sufficient detail so as to permit reasonable evaluation of the subject documents, all documents responsive to plaintiffs' document demands, even if such documents are not themselves being provided to plaintiffs.
2. Defendants agree to provide to plaintiffs all documents which (1) relate to or describe unsubstantiated complaints against the police officer defendants, provided such complaints are related to allegations of excessive force, false arrest, or malicious prosecution, and (2) all substantiated complaints against the police officer defendants, regardless of their nature, and (3) all records of disciplinary actions taken against individual defendants, regardless of the nature of the underlying complaint.

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3. The documents provided to plaintiffs shall be considered "confidential materials" to the extent, and only to the extent, that they are (a) not obtained by plaintiff from sources other than defendants, or (b) are not otherwise publicly available.
4. Plaintiffs' attorney shall not use the Confidential Materials for any purpose other than for the preparation or presentation of plaintiff's case in this action.
5. Plaintiffs attorney shall not disclose the Confidential Materials to any person not a member of the staff of their law office, except under the following conditions:
6. Disclosure may be made only if necessary to the preparation or presentation of plaintiffs' case in this action.
7. Disclosure before trial may be made only to plaintiff, to an expert who has been retained or specially employed by plaintiffs attorney in anticipation of litigation or preparation for this action, to a witness at deposition, or to the Court.
8. Before any disclosure is made to a person listed in Paragraph 6 above (other than to the Court), plaintiffs attorney shall provide each such person with a copy of this Stipulation and Protective Order, and such person shall consent in writing, in the form annexed hereto as Exhibit A, not to use the Confidential Materials for any purpose other than in connection with the prosecution of this case and not to further disclose the Confidential Materials except in testimony taken in this case. The signed consent shall be retained by plaintiffs attorneys and a copy shall be furnished to defendants' attorneys upon their request.
9. Deposition testimony concerning any Confidential Materials which reveals the contents of such materials shall be deemed confidential, and the transcript of such testimony, together with any exhibits referred to therein, shall be separately bound, with a cover page prominently marked "CONFIDENTIAL." Such portion of the transcript shall be deemed to be Confidential Materials within the meaning of this Stipulation and Protective Order.
10. If any paper which incorporates any Confidential Materials or reveals the contents thereof is filed in this Court, those portions of the papers shall be delivered to the Court enclosed in a sealed envelope bearing the caption of this action, an indication of the nature of the contents, and the following legend:

*CONFIDENTIAL: This envelope contains documents or information designated confidential pursuant to an order entered by the United States District Court for the Southern District of New York in the above-captioned action. This envelope shall not be opened or unsealed without the express direction of a judge of this Court, and its contents shall not be displayed or revealed except as the Court may order. This envelope and its contents shall at all times be maintained separate and apart from the publicly available files of this case.*

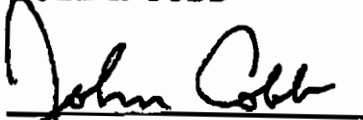
11. However, where the confidential information is not material to issues addressed in court submissions and the parties agree that the redaction of personal, confidential and/or identifying information would be sufficient to protect the interests of parties or non-parties, the parties may file redacted documents without further order of the Court.
12. Within 30 days after the termination of this case, including any appeals, the Confidential Materials, including all copies and non-conforming copies, notes, and other materials containing or referring to information derived therefrom, shall be returned to defendant's attorney or, upon their consent, destroyed, and all persons who possessed such materials shall verify their return or destruction by affidavit furnished to defendant's attorney.
13. Nothing in this Stipulation and Protective Order shall be construed to limit defendant's use of the confidential materials in any manner.
14. Facsimile signatures will be considered valid and binding for the purpose of this Stipulation.

DATED: February 29, 2008

DATED: March 6 2007

**COBB & COBB**

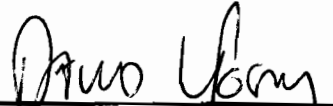
By:



JOHN COBB (9884)  
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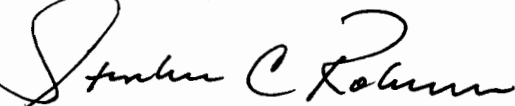
**McCABE & MACK LLP**

By:



DAVID L. POSNER (0310)  
Attorneys for Defendants  
63 Washington St.  
Poughkeepsie, NY 12602  
(845) 486-6874

SO ORDERED:



U.S.D.J.

April 11, 2008

**EXHIBIT A**

The undersigned hereby acknowledges that he/she has read the Stipulation and Protective Order entered in the United States District Court for the Southern District of New York in the action entitled Lawrence Burley and Franklyn Jackson v. City of Newburgh, et al., 07-CV-3336 (SCR), and understands the terms thereof. The undersigned agrees not to use the Confidential Materials defined therein for any purpose other than in connection with the prosecution of this case, and will not further disclose the Confidential Materials except in testimony taken in this case.

DATE: \_\_\_\_\_

SIGN NAME:   x  

\_\_\_\_\_  
Print name